

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Chapter 7 Estate of Bernard L. Madoff,

Plaintiff,

v.

NATIXIS FINANCIAL PRODUCTS LLC and
BLOOM ASSET HOLDINGS FUND,

Defendants.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 23-01017 (CGM)

**STIPULATION AND ORDER TO WAIVE ORAL ARGUMENT ON CERTAIN ISSUES
SCHEDULED FOR HEARING ON OCTOBER 18, 2023 AT 10:00 A.M.**

Plaintiff Irving H. Picard (the “Trustee”), trustee for the substantively consolidated liquidation proceeding of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–*lll*, and the chapter 7 estate of Bernard L. Madoff, and defendants Natixis Financial Products LLC and Bloom Asset Holdings Fund (“Defendants,” and together with the Trustee, the “Parties”), by and through their respective undersigned counsel, stipulate and agree as follows:

WHEREAS, on May 22, 2023, Defendants filed a motion to dismiss the Trustee's Complaint (the "Motion") [ECF No. 17], accompanying memorandum of law ("Mem.") [ECF No. 18], and Declaration of Joseph Cioffi [ECF No. 19]; on August 7, 2023, the Trustee filed an opposition to Defendants' Motion [ECF No. 22]; and on September 22, 2023, Defendants filed a reply in further support of their Motion [ECF No. 24] (collectively, the "Briefing");

WHEREAS, the Court scheduled a hearing to consider the Motion on October 18, 2023, at 10:00 am; and

WHEREAS, the Parties have conferred and agree to rest on their papers for all issues in the Motion except for issues related to (i) the release in the Alpha Prime Settlement Agreement ("Alpha Prime Settlement"), Mem. at 9–16, (ii) 11 U.S.C. § 546(g), Mem. at 16–22, 25–27, and (iii) laches, Mem. at 27–30, and waive oral argument as to the other arguments addressed in the Briefing.

IT IS HEREBY STIPULATED AND AGREED, by the Parties, and **SO ORDERED**, by the Court:

1. The Parties will present argument solely on issues related to the release in the Alpha Prime Settlement,¹ 11 U.S.C. § 546(g), and laches at the October 18, 2023 hearing.
2. The Parties otherwise reserve all rights, arguments, objections, and defenses they may have, and entry into this Stipulation shall not impair or otherwise affect any such rights, arguments, objections, and defenses.

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¹ Defendants' affiliate, Natixis S.A., raised a substantively identical defense based on the release in the Alpha Prime Settlement in its pending motion to dismiss, which the Trustee opposed. *See* Mot. to Dismiss & Opp'n, No. 10-05353 (Bankr. S.D.N.Y.), ECF Nos. 199, 209. Accordingly, the Parties' argument on the release defense at the October 18, 2023 hearing will apply both to this action and to the action against Natixis S.A. (No. 10-05353).

Dated: October 11, 2023
New York, New York

By: /s/ Carlos Ramos-Mrosovsky

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By: /s/ Joseph Cioffi

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*Attorneys for Defendants Natixis Financial
Products LLC (as successor in interest to
Natixis Financial Products Inc.) and Bloom
Asset Holdings Fund*

Dated: October 13, 2023
Poughkeepsie, New York



/s/ Cecelia G. Morris

Hon. Cecelia G. Morris
U.S. Bankruptcy Judge